CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 3, 2000

H.R. 3241

A bill to direct the Secretary of the Interior to recalculate the franchise fee owed by Fort Sumter Tours, Inc., a concessioner providing service to Fort Sumter National Monument in South Carolina

As ordered reported by the House Committee on Resources on July 26, 2000

H.R. 3241 would require the National Park Service (NPS) to recalculate the franchise fee that it charges to Fort Sumter Tours, Inc. (FST), a concessioner providing transportation to visitors at Fort Sumter National Monument. If the recalculated fee is not acceptable to FST, a new fee would be established through binding arbitration. The bill would require that the arbitrator award FST reasonable legal costs of all proceedings involving the fee dispute if the concessioner is the prevailing party.

CBO cannot estimate the budgetary impact of H.R. 3241 because it would probably depend on the outcome of a legal proceeding that has not yet occurred. We expect that the dispute over the FST franchise fee would be resolved through arbitration, and that the arbitrator would choose a franchise fee of between 4.25 percent (which is what the company currently pays the NPS) and 12 percent (which is the adjusted rate established by the agency in 1991).

Under the higher rate of 12 percent, the federal government could receive about $3 million in fees, interest, and penalties owed by FST since 1991. This amount could be collected—and spent—in the absence of legislation because the NPS has recently begun administrative action to collect it. (To date, FST has not paid the higher rate.) If the lower rate would be chosen by an arbitrator, the government would lose the $3 million owed to it (assuming that the arbitrator would make the lower rate retroactive to 1991). In addition, if the arbitrator would deem FST to be the prevailing party, the government would have to pay about $500,000 in legal costs that have been incurred by the company over the past several years to dispute the 12-percent rate. According to the Department of the Interior, this payment would be made from appropriated NPS funds, assuming the availability of the necessary amounts.

What would happen to annual franchise fees after arbitration is also uncertain, CBO expects that by the time a decision would be reached, the FST concession contract will be expired.

Annual offsetting receipts (and associated direct spending) from franchise fees after 2001 would depend on the outcome of competitive bidding for the concession.

H.R. 3241 could affect offsetting receipts (a credit against direct spending) and the spending of those receipts; therefore, pay-as-you-go procedures would apply. CBO estimates, however, that because the NPS would probably have been allowed to spend the amounts that it would have received in the absence of arbitration, the loss of such amounts would have no net impact on the federal budget.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On October 2, 2000, CBO transmitted a cost estimate for S. 2331, a similar bill ordered reported by the Senate Committee on Energy and Natural Resources on September 20, 2000. The two estimates reflect differences in the two versions of the legislation, primarily the treatment of legal expenses of FST if the company would be deemed the prevailing party.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.